CHILD CARE CONTRIBUTION CREDIT

39-22-121

- 1) Computation of the credit.
 - a) Any taxpayer that makes a monetary contribution to promote child care in Colorado may claim an income tax credit of fifty percent of the total value of the contribution.
 - b) A credit for in-kind contributions, such as stock and other non-monetary items, is not available for tax years 2000 and later.
- 2) Limitation on amount of credit that may be generated. Carryovers.

The amount of credit generated in any one tax year may not exceed \$100,000. If the amount of credit generated in one tax year exceeds the amount of tax, the excess may be carried forward for up to five tax years. A credit carry forward does not restrict additional credits from being generated in future years.

- 3) Qualifying contributions.
 - a) Qualifying contributions made March 9, 2004 or later:
 - i) Monetary contributions made to a qualifying child care organization, as defined in paragraph 4)a) below, to the extent the organization utilizes the donation for child care provided to children twelve years of age or under.
 - ii) Monetary contributions made to a qualifying child care organization, as defined in paragraph 4)b) below, to the extent the organization is a grandfathered organization, as defined in paragraph 6) below, and utilizes the donation for child care provided to children eighteen years of age or under.
 - b) Qualifying contributions made prior to March 9, 2004:
 - i) Monetary contributions made to a qualifying child care organization, as defined in paragraph 4)b) below, to the extent the organization utilizes the donation for child care provided to children eighteen years of age or under.
- 4) Qualifying child care organizations.
 - a) Qualifying donations made March 9, 2004 or later to the following child care organizations are eligible for the child care contribution tax credit. Programs specified in paragraphs i) through vii) are qualified only if the program is licensed by the Department of Human Services. Programs specified in paragraphs viii) through xii) are only qualified if the facility or program is registered with the Department of Revenue.
 - i) A child care center as defined in 26-6-102(1.5), C.R.S.,
 - ii) A child placement agency as defined in 26-6-102(2), C.R.S.,
 - iii) A family child care home as defined in 26-6-102(4), C.R.S.,
 - iv) A foster care home as defined in 26-6-102(4.5), C.R.S.,

- v) A homeless youth shelter as defined in 26-6-102(5.1), C.R.S.,
- vi) A residential child care facility as defined in 26-6-102(8), C.R.S.,
- vii) A secure residential treatment center as defined in 26-6-102(9), C.R.S.,
- An unlicensed child care facility that provides child care services similar to those viii) provided by a licensed child care center as defined in 26-6-102(1.5), C.R.S. This includes child care provided for the whole or part of a day. The program must provide for the care of five or more children who are not related to the owner. operator, or manager. This does not include facilities or programs that provide services identical or similar to day treatment centers, guest child care facilities, family child care homes, foster care homes, homeless youth shelters, medical foster care, residential care facilities, secure residential treatment centers, specialized group facilities, or therapeutic foster care. This also does not include facilities or programs to which contributions qualify for the enterprise zone administrator credit or school programs maintained during regular school hours including kindergartens maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district's preschool program operated pursuant to article 28 of title 22, C.R.S.
- ix) A grant or loan program for a parent or parents in Colorado requiring financial assistance for child care.
- x) A training program for child care providers in Colorado.
- xi) An information dissemination program in Colorado to provide information and referral services to assist a parent or parents in obtaining child care.
- xii) A grandfathered child care organization as defined in paragraph 6) below.
- b) Qualifying donations made prior to March 9, 2004 to the following child care organizations or programs are eligible for the tax credit.
 - i) A "child care center" as defined in 26-6-102(1.5), C.R.S. or a "family child care home" as defined in 26-6-102(4), C.R.S. and licensed by the Dept of Human Services. This includes monetary contributions for the establishment or operation of the program.
 - ii) An unlicensed child care program that provides child care services similar to those provided by a licensed child care center as defined in 26-6-102(1.5), C.R.S. This includes child care provided for the whole or part of a day. The program must provide for the care of five or more children who are not related to the owner, operator or manager. This does not include facilities or programs that provide services identical or similar to day treatment centers, guest child care facilities, foster care homes, homeless youth shelters, medical foster care, residential care facilities, secure residential treatment centers, specialized group facilities, or therapeutic foster care. This also does not include facilities or programs to which contributions qualify for the enterprise zone administrator credit or school programs maintained during regular school hours including kindergartens maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district's preschool program operated pursuant to article 28 of title 22, C.R.S.

- iii) A grant or loan program for a parent or parents in Colorado requiring financial assistance for child care.
- iv) A training program for child care providers in Colorado.
- v) An information dissemination program in Colorado to provide information and referral services to assist a parent or parents in obtaining child care.

5) Registration of Unlicensed Organizations

- a) Facilities, organizations or programs that are licensed by the Department of Human Services as a child care organization do not need to separately register with the Department of Revenue. However, unlicensed facilities, organizations or programs must register with the Department of Revenue to be a qualified organization for the purposes of this credit. The application for registration must include:
 - i) an explanation why they are a qualified organization,
 - ii) an explanation why licensing with the Department of Human Services is not required,
 - iii) Brochures, newspaper articles, community publications and other documentation describing the facility or program.
- b) Applicants for registration, either pursuant to this paragraph 5) or 6), below, whose application has been denied in whole or in part, may appeal the denial by filing a request for hearing to the Executive Director pursuant to the Colorado Administrative Procedures Act (§24-4-104, C.R.S.) and not pursuant to §39-21-103, C.R.S.
- 6) Grandfathered organizations.
 - a) A grandfathered child care program is considered a qualifying organization on or after March 9, 2004 if the organization:
 - i) received contributions prior to January 1, 2004 for which a child care contribution credit was properly allowed and claimed,
 - ii) no longer qualifies for the credit under the new rules because the program no longer meets the qualifications of the law and/or some or all children cared for in the program are age thirteen through eighteen,
 - has applied for eligibility with the Department of Revenue and been approved to continue to accept donations that qualify for the credit.
 - b) The grandfather application must include:
 - i) documentation proving the program qualified for the credit under the law as it existed prior to March 9, 2004,
 - ii) documentation regarding the children age thirteen through eighteen that were assisted by donations received in 2003 or prior, and
 - iii) a list of taxpayers who claimed the credit in tax year 2003 or prior.
- 7) Exceptions. Contributions will not qualify for this credit if any of the following apply:

- a) The contribution is made to a child care program in which the taxpayer or a person related to the taxpayer has a financial interest.
- b) The contribution is made to a for-profit business, unless the contribution is directly used for the acquisition or improvement of facilities, equipment, or services, including the improvement of staff salaries, staff training, or the quality of child care.
- c) The contribution is not directly related to promoting child care in Colorado as defined in this regulation.
- d) The contribution is made after December 31, 2019.
- e) The donor receives consideration from the donee organization in exchange for the contribution. If this is the case, there is a sale rather than a contribution. However, this will not restrict a company from contributing to a child care center and claiming a credit based on that contribution if the employees of the company receive a benefit in the form of discounted child care. One of the prime goals of this tax credit is to encourage employers to contribute to child care for their employees, assuming that the employer has no financial interest in the child care facility.
- 8) Contributions that are split between qualified and nonqualified purposes.
 - a) Organizations may accept contributions that are used in part for qualified child care but are used in part for nonqualified purposes. Examples of this include:
 - i) a child care center that cares for children both 12 and under and 13 and over,
 - ii) a church that uses part of the contribution to fund its child care center and part to fund other charitable functions,
 - iii) contributions to a community center construction project for which a child care center is only part of the overall project.
 - b) The donee organization must allocate the portion of a contribution that qualifies for the child care contribution credit for the donor. This allocation must be done in a reasonable manner based on the facts of the situation. Examples of methods that can be used to allocate the contribution include:
 - A child care center that cares for children of various ages, some of which are 13 or older who do not qualify for the credit.
 - a) The child care center can compute the percentage of children in its care that qualify for the credit. This percentage can by used to allocate donations that are made to the facility.
 - b) The child care center can document the expenses incurred in caring for children who are 12 and younger versus children who are 13 and older. The donations would be allocated using this percentage. This method requires extensive supporting documentation.
 - ii) A facility or program that operates several different programs, not all of which qualify for the credit.
 - a) The expenses of the various programs must be accounted for and donations can be directly allocated to the qualified programs.

- b) The donations can be allocated on a percentage basis utilizing total expense figures for the entire facility.
- iii) The construction of a community center, which includes a child care facility.
 - a) A percentage of area method can be utilized if this provides an equitable calculation of the credit (i.e. 30% of the floor space is for the child care center so 30% of the costs are allocated to the child care center).
 - b) If construction costs vary greatly between the child care area of the building and other areas, a more equitable allocation of the donation would be achieved by determining the difference between the cost of the facility with and without the child care facility. That difference can be used to determine the percentage of costs to allocate to the child care center.
 - c) If construction costs are reasonably allocated using the method in paragraph A above but the costs of equipping the child care center varies significantly from other areas of the building, a hybrid method of allocating donations can be used. Construction costs can be allocated using a percentage of area method with equipment costs directly allocated. These factors could then be combined into one overall percentage to be used in allocating the donations.
- iv) If the methods above do not equitably allocate the donation to the child care program, a written request to the Director of the Department of Revenue may be made to obtain permission to use an alternate method of allocation.
- c) If contributions are accepted as earmarked for only the child care center despite the existence of nonqualified programs, the full contribution will qualify for the 50% credit. The organization must have accounting procedures in place to verify that those donations are indeed utilized 100% for the child care function and no funds are utilized for nonqualified purposes. Any excess funds left over at the end of the year must be carried forward for eligible expenses in the next year. Accounting procedures must be in place to track and document this allocation process. A separate fund cannot be arbitrarily set up to accept donations for the child care facility while funds from other sources (such as federal or state funds, charitable organizations, nonresident donors) are used to pay other expenses that would not qualify for the credit.

9) Documentation.

Any contribution must be supported by a signed statement from the child care center or donee organization and furnished to the donor.

- a) The statement must state the amount of the cash contribution.
- b) The statement must list the name and Department of Human Service's license number, if applicable, of the eligible organization, or the name and Department of Revenue registration number of a pre-registered organization that qualifies for the credit.
- c) The statement must include a detailed description of the eligible purpose(s) that the contributions will be used for and that the donation will be utilized one-hundred percent for purposes directly related to promoting child care.

- d) If the contribution is not being utilized one-hundred percent for purposes directly related to promoting child care the statement must clearly state the portion of the contribution that qualifies for the credit computation. It will be the responsibility of the donee organization to prove that the percentage of the contribution reported as utilized for purposes directly related to promoting child care is accurate and no portion has been expended on any other organizational expense or purpose. Example: A contribution of \$1,000 is made to an intermediary organization. Seventy percent of the contribution is expended on qualifying purposes and the other thirty percent is expended on unrelated overhead expenses of the organization. The statement must clearly state that only \$700 of the contribution is eligible for calculating the fifty percent credit.
- e) The donor must provide the statement to the Department of Revenue with an income tax return filed on a paper form. In the case of an income tax return filed electronically, the certification must be provided to the Department of Revenue upon request with only information specified by the department provided with the electronic filing.

10) Investment Funds

Money donated to a qualified organization may be invested by that organization in an account that provides future payments to the organization. The interest and the principal, when removed from the account in any future year, must be utilized 100% for qualifying child care in order for the original donation to qualify for the credit.

11) Definitions:

- a) A "person related to the taxpayer" means a person connected with another by blood or marriage. Related taxpayer also includes a corporation, partnership, limited liability company, trust or association controlled by the taxpayer; an individual, corporation, limited liability company, partnership, trust or association under the control of the taxpayer; or a corporation, limited liability company, partnership, trust, or association controlled by an individual, corporation, limited liability company, partnership, trust, or association under the control of the taxpayer.
- b) An "in-kind contribution" is any contribution of an asset other that the official currency of the U.S. government. An in-kind contribution's value will not be a set amount, but will vary based on fair market value or current exchange rates. Examples include employee labor, materials, computer equipment, gold and stock.
- c) "Child care" means care provided to a child twelve years of age or younger.

12) Conditional Availability

- a) For tax years beginning on or after January 1, 2011, but before January 1, 2020 the credit will not be allowed unless the December legislative council revenue forecast issued prior to the tax year indicates that the total state general fund appropriations grew by at least six percent over such appropriations for the previous fiscal year. In the event that the credit is not allowed for the tax year in which the contribution is made because of the preceding limitation the taxpayer making the contribution will be allowed to claim the credit in the next tax year in which the forecast indicates that the total state general fund appropriations grew by at least six percent over such appropriations for the previous fiscal year.
- b) If the amount of the credit allowed exceeds the amount of the tax due for the tax year in which the credit is allowed, the excess credit shall not be refunded, but may be carried forward to the next tax year. The restriction set forth in paragraph a) of this subsection

- 12) does not apply to any excess credits claimed and allowed in prior years and carried forward.
- c) If a taxpayer makes contributions in multiple years for which they are prohibited from claiming a credit due to the restrictions set forth in paragraph a) of subsection 12) the total amount claimed in the tax year in which the credit is allowed shall be limited to \$100,000, excluding any amounts claimed and allowed in prior years and carried forward.
- d) Notwithstanding the provisions of paragraph a) of this subsection 12) no credit claim shall be allowed in any tax year commencing on or after January 1, 2020.